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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 AVRAM VINETO NIKA,

9 Petitioner,

3:09-cv-00178-JCM-WGC

10 vs.

ORDER

11 TIMOTHY FILSON, *et al.*,

12 Respondents.
13 _____/

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15 In this capital habeas corpus action, the petitioner, Avram Vineto Nika, filed a second
16 amended petition for writ of habeas corpus on August 3, 2015 (ECF No. 73). Respondents filed a
17 motion to dismiss on May 12, 2016 (ECF No. 95). On October 7, 2016, Nika filed an opposition to
18 the motion to dismiss (ECF No. 132), and a motion for evidentiary hearing (ECF No. 133). And, on
19 October 24, 2016, Nika filed a motion for leave to conduct discovery (ECF No. 137).

20 Respondents were then due on November 28, 2016, to file a reply in support of their motion
21 to dismiss, a response to the motion for evidentiary hearing, and a response to the motion for leave to
22 conduct discovery. *See* Order entered October 12, 2016 (ECF No. 135); Fed. R. Civ. P. 6(d) (adding
23 three days to the time for response to a motion when the motion is served by electronic means).

24 In the meantime, during September and October, 2016, while the briefing of the motion to
25 dismiss and related motions was ongoing, respondents filed three notices of change of attorney (ECF
26 Nos. 131, 136, 138), notifying the court that the attorney who had long represented the respondents

1 in this case was being replaced. The third of those notices, filed on October 25, 2016, stated that
2 respondents would be represented by Senior Deputy Attorney Victor-Hugo Schulze, II, of the
3 Nevada Attorney General's Office.

4 Then, on November 22, 2016, Mr. Schulze filed a motion for extension of time (ECF No.
5 139), requesting an extension of time to February 19, 2017 (an 83-day extension of time) to file a
6 reply in support of the motion to dismiss, a response to the motion for evidentiary hearing, and a
7 response to the motion for leave to conduct discovery.

8 The undersigned has ordered that Mr. Schulze is not allowed to appear in his courtroom. The
9 court will, therefore, require the Nevada Attorney General to assign responsibility for this case to a
10 different attorney, and will set a deadline for respondents to file a notice reflecting that change of
11 counsel.

12 With respect to the motion for extension of time, the court finds that the motion is generally
13 made in good faith and not solely for the purpose of delay, and that, in light of the substitution of
14 respondents' counsel in this capital habeas corpus action, there is good cause for an extension of
15 time; however, the court finds that, under the circumstances, an 83-day extension of time requested
16 by respondents is excessive. The court will extend this due date by 60 days, to January 27, 2017.
17 The court will not look favorably on any motion to further extend that deadline.

18 **IT IS THEREFORE ORDERED** that respondents shall, within 10 days, assign
19 responsibility for this case to an attorney other than Victor-Hugo Schulze, II, and shall file a notice
20 reflecting the substitution of counsel.

21 **IT IS FURTHER ORDERED** that respondents' Motion for Enlargement of Time (ECF No.
22 139) is **GRANTED IN PART AND DENIED IN PART**. Respondents shall have until and
23 including **January 27, 2017**, to file a reply in support of the motion to dismiss, a response to the
24 motion for evidentiary hearing, and a response to the motion for leave to conduct discovery.

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Dated December 8, 2016.

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